To the Members of the United States Congress:

The undersigned organizations strongly oppose numerous bills attempting to prohibit arbitration and class action waiver provisions that have been introduced or proposed in the 118th Congress. Arbitration has been an important alternative dispute resolution mechanism since the enactment of the Federal Arbitration Act in 1925. Unfortunately, there is an organized effort underway to dismantle the arbitration system in favor of bringing claims in the broken class action litigation system.

Individualized contract-based arbitration is an efficient, effective, and less expensive means of resolving disputes for consumers, employees, and businesses. Multiple empirical studies have shown that those bringing claims in arbitration do just as well as or, in many circumstances better than in court.\(^1\) By contrast, studies have also shown that class action settlements frequently provide only a pittance – or many times, nothing at all – to class members while millions of dollars are paid to their attorneys.\(^2\)

Opponents of arbitration mischaracterize how arbitration works to paint its use as unfair. The reality is that arbitration providers and courts ensure that arbitration operates fairly and that arbitration agreements are enforced only if they meet basic guarantees of fairness and due process. For example, the American Arbitration Association (AAA), the country’s largest arbitration provider, developed fairness rules for employment and consumer arbitrations. It will not accept a case unless the arbitration agreement complies with those standards. These rules require that arbitrators must be neutral and disclose any conflict of interest and give both parties an equal say in selecting the arbitrator; limit the fees paid by employees and consumers to $350 and $225 respectively – equal to or less than the filing fee in federal court; empower the arbitrator to order any necessary discovery; and require that damages, punitive damages, and attorneys’ fees be awardable to the claimant to the same extent as in court. And the AAA rules require that consumers be given the option of resolving their dispute in small claims court. JAMS, another leading arbitration provider, requires similar protections—as do other arbitration providers.

The courts provide another layer of oversight. If an arbitration provision is unfair, courts can and do step in and declare those arbitration agreements unconscionable and unenforceable. Also, arbitration agreements cannot prevent consumers or employees from publicly discussing

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\(^2\) See Consumer Financial Protection Bureau, Arbitration Study: Report to Congress (March 2015) available at [https://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress2015.pdf](https://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress2015.pdf). Finding that 87% of resolved class actions resulted in no benefit to absent class members, and in the rare cases they did, the average settlement payment was no better than $32.35 per class member, but attorneys' fees averaged $1 million per case.
claims with government agencies nor can arbitrators’ decisions be kept secret. Courts have invalidated arbitration agreements that purported to impose a “gag order.” And courts consistently hold that either party may disclose the results of arbitration proceedings.

Despite a lack of evidence showing a systemic problem with arbitration, multiple bills and amendments have been introduced and proposed in the 118th Congress that attack the availability of arbitration and class action waivers in numerous contexts such as employment disputes, consumer contracts, data privacy, multiple types of discrimination claims, and antitrust disputes, among others.³

If successful, these legislative efforts would declare unenforceable potentially millions of arbitration provisions that allow for the orderly and economical resolution of disputes. Opponents of pre-dispute arbitration fail to acknowledge that, if enacted, these provisions and bills will limit the realistic opportunity for consumers and employees to obtain a remedy if a dispute arises. The only real beneficiaries of these anti-arbitration provisions will be class action lawyers who would benefit from the possibility of bringing more class action lawsuits that enrich them while providing little benefit to class members.

These attacks on arbitration are inaccurate, unnecessary, and would undermine an important alternative to litigation that has benefited consumers, employees, and businesses for decades, and on which many of them now rely. Accordingly, we strongly urge you to oppose attempts to prohibit arbitration or class action waivers.

Sincerely,

Foodservice Equipment Distributors Association
HR Policy Association
Independent Women's Forum
Independent Women's Law Center
Independent Women's Voice
Lawyers for Civil Justice
Littler Workplace Policy Institute
National Association of Home Builders
National Association of Manufacturers
National Association of Mutual Insurance Companies
National Club Association
National Retail Federation
Real Estate Services Providers Council, Inc. (RESPRO®)
Reinsurance Association of America
Retail Industry Leaders Association (RILA)
Small Business & Entrepreneurship Council
U.S. Chamber of Commerce
Window & Door Manufacturers Association

**Alabama**
Mobile Area Chamber of Commerce
Shoals Chamber of Commerce
SouthWest Mobile County Chamber of Commerce

**Alaska**
Alaska Chamber

**Arizona**
Apache Junction Area Chamber of Commerce
Arizona Chamber of Commerce and Industry
Buckeye Valley Chamber of Commerce
Chandler Chamber of Commerce
Greater Flagstaff Chamber of Commerce
Greater Phoenix Chamber
Green Valley Sahuarita Chamber of Commerce & Visitor Center
Mesa Chamber of Commerce
Nogales-Santa Cruz County Chamber of Commerce
Prescott Valley Chamber of Commerce
Surprise Regional Chamber of Commerce
Tucson Hispanic Chamber of Commerce
Tucson Metro Chamber

**Arkansas**
Arkansas State Chamber of Commerce/AIA
Little Rock Regional Chamber
Rogers Lowell Area Chamber of Commerce

**California**
Antelope Valley Chambers of Commerce
Brea Chamber of Commerce
California Business Roundtable
California Chamber of Commerce
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Civil Justice Association of California
Coalition of California Chambers Orange County
Danville Area Chamber of Commerce
Fresno Chamber of Commerce
The Greater Conejo Valley Chamber of Commerce
Greater Riverside Chambers of Commerce
LA Area Chamber of Commerce
La Canada Flintridge Chamber of Commerce
Long Beach Area Chamber of Commerce
Modesto Chamber of Commerce
Moorpark Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council
Palm Desert Area Chamber of Commerce
Port Hueneme Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
San Diego Regional Chamber of Commerce
San Juan Capistrano Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
SGV Regional Chamber of Commerce
Simi Valley Chamber of Commerce
South Orange County Economic Coalition
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
West Ventura County Business Alliance
Yorba Linda Chamber of Commerce

Connecticut
The Connecticut Business & Industry Association (CBIA)

Florida
Florida Chamber of Commerce Litigation & Regulatory Reform Center
Greater Boca Raton Chamber of Commerce
Lake City - Columbia County Chamber of Commerce
Stuart/Martin County Chamber of Commerce
Turkish American Chamber of Commerce of the South
Venice Area Chamber of Commerce, Inc.

Georgia
Charlton County Okefenokee Chamber of Commerce
Dublin-Laurens County Chamber of Commerce
Georgia Chamber of Commerce
Habersham County Chamber of Commerce

Hawaii
Chamber of Commerce Hawaii
Hawaii Restaurant Association
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<td>Beaverhead Chamber of Commerce &amp; Agriculture &amp; Dillon Convention &amp; Visitors Bureau (CVB)</td>
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Wahoo Chamber & Economic Development
Washington County Chamber of Commerce
Henderson Chamber of Commerce
Laughlin Chamber of Commerce
Laughlin Tourism Commission
Reno + Sparks Chamber of Commerce
Vegas Chamber
White Pine Chamber of Commerce

New Hampshire
BIA of NH
Greater Westfield Area Chamber of Commerce
New Jersey Civil Justice Institute
New Jersey State Chamber of Commerce

New Mexico
New Mexico Chamber of Commerce

New York
The Business Council of New York
Capital Region Chamber
Lawsuit Reform Alliance of New York

North Carolina
Charlotte Regional Business Alliance
NC Chamber
Perquimans County Chamber of Commerce

North Dakota
The Chamber Grand Forks / East Grand Forks
Greater North Dakota Chamber

Ohio
Ohio Chamber of Commerce

Oregon
Canby Area Chamber of Commerce
Gresham Area Chamber of Commerce
North Clackamas County Chamber of Commerce
Oregon Business & Industry
Oregon State Chamber
Salem Area Chamber of Commerce

Pennsylvania
Hanover Area Chamber of Commerce
Pennsylvania Chamber of Business and Industry
Pennsylvania Coalition for Civil Justice Reform
Pittsburgh Airport Area Chamber of Commerce
Schuylkill Chamber of Commerce
Southern Chester County Chamber of Commerce

Puerto Rico
Puerto Rico Chamber of Commerce

South Carolina
Anderson Area Chamber of Commerce
Charleston Metro Chamber of Commerce
Greenville Chamber
Hilton Head Island - Bluffton Chamber of Commerce
Myrtle Beach Area Chamber of Commerce
South Carolina Chamber of Commerce
Tri-County Regional Chamber of Commerce
South Dakota
Greater Sioux Falls Chamber of Commerce
Tennessee
Kingsport Chamber
Tennessee Chamber of Commerce & Industry
Texas
Fort Worth Chamber of Commerce
Greater Arlington Chamber of Commerce
Greater Tomball Area Chamber of Commerce
Longview TX Chamber of Commerce
North Texas Commission
Texans for Lawsuit Reform
Texas Association of Business
Utah
Davis Chamber of Commerce
The Salt Lake Chamber
Utah Valley Chamber of Commerce
Virginia
Blackstone Chamber of Commerce
Central Fairfax Chamber of Commerce
ChamberRVA
Loudoun County Chamber of Commerce
Virginia Chamber of Commerce
Washington
Burlington Chamber of Commerce
Covington Chamber of Commerce
Greater Lake Stevens Chamber of Commerce
Greater Vancouver Chamber
Lewis Clark Valley Chamber of Commerce
Moses Lake Chamber of Commerce
Tacoma-Pierce County Chamber
Washington Retail Association
West Virginia
West Virginia Chamber of Commerce
Wisconsin
Wisconsin Manufacturers & Commerce
Wyoming
Casper Area Chamber of Commerce
Greater Cheyenne Chamber of Commerce
Wyoming State Chamber of Commerce